

Appl. No. 09/687,932
Amrdr. Dated Jan. 27, 2004
Replay to Office Action of Oct. 2, 2003

REMARKS

Interview

Applicants' representative, Sandra Wells, met in person with Examiner Sisson on January 20, 2004. The Goldberg reference was discussed and the Examiner indicated that the 102 rejections could be overcome by a showing that the instant application and the Goldberg application were commonly owned or subject to an obligation of assignment to a common owner at the time of invention of the presently claimed invention. Applicants have submitted a statement of common ownership herewith, stating that the invention presently claimed was subject to an obligation of assignment to Affymetrix at the time the invention was made and EP 0999285 A1 was assigned to Affymetrix at the time the later invention was made.

Claims Rejections- 35 USC §112

The Examiner rejected claims 23-26 as being indefinite stating that claim 23 is confusing because of the recitation of a "first complex" that includes a first receptor for said binding ligand, but should seemingly be comprised of more than one part or component and because of the terminology of a receptor for a receptor.

Applicants have amended claims 23-25 and 27 to clarify. The first receptor may be added alone or as part of a complex comprised of two or more components. A second component may be, for example, a detectable moiety. The term "second receptors for said first receptor" has been changed so that the second receptor is termed an "anti-receptor". Support for this amendment is found, for example, on page 9, lines 3-6. The anti-receptor binds to the first receptor.

Applicants have also amended claims 23 and 24 to correct a typographical error, "ligands" has been changed to "ligand".

Claims Rejections- 35 USC §102

In Paragraph 8 of the office action the Examiner rejected Claims 23-31 in view of Goldberg et al. EP 0999285 A1. In paragraph 9 the Examiner notes that on the filing date of the instant application, Oct. 13, 2000, the inventors had not executed assignments and

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as a result the EP publication qualifies as prior art under 35 USC 102(a). The instant application was subject to obligation of assignment to Affymetrix and Goldberg et al. EP 0999285 was owned by Affymetrix at the time of filing of the instant application. Applicants have filed herewith a statement to establish that at the time of invention, the instant application was subject to obligation of assignment to Affymetrix, Inc., the assignee of the Goldberg application. Applicants believe that this statement should remove EP 0999285 as prior art against the present application and respectfully request withdrawal of the rejections.

CONCLUSION

For these reasons, Applicants believe all pending claims are now in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 731-5768. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 01-0431.

Respectfully submitted,

By 
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